(2023) 01 JH CK 0015

In the Jharkhand High Court

Case No : Writ Petition (T) No. 2575 Of 2020

M/s Paras Vinimay Pvt. Ltd — APPELLANT

Vs

Goods And Services Tax Network And Others — RESPONDENT

Date of Decision : 09-01-2023

Acts Referred:

Limitation Act, 1963 — Article 137
Jharkhand Goods And Services Tax Rules, 2017 — Rule 117
Jharkhand Goods And Services Tax Act, 2017 — Section 140

Citation : (2023) 01 JH CK 0015

Hon'ble Judges : Aparesh Kumar Singh, J;Deepak Roshan, J

Bench : Division Bench

Advocate : P.A.S Pati, Shray Mishra

Final Decision : Disposed Of

Judgement

1. The writ petition has been placed today on being mentioned by learned counsel for the petitioner Ms. Rakhi Sharma for withdrawal of the writ petition. The writ petition has been preferred with the following prayer:

a) For a declaration that Rule 117 of Jharkhand Goods and Services Tax Rules, 2017 to the extent it prescribes a period of limitation for claiming of Input Tax Credit (ITC) in Form GST TRAN-1 is ultra vires to Section 140 of the Jharkhand Goods and Services Tax Act, 2017 as the said Section does not authorise the rule-making authority to prescribe a time limit within which such FORM GST TRAN-1 is to be filed in order to claim such input tax credit (ITC).

b) For a further declaration that the due date contemplated under Rule 117 of the Jharkhand Goods and Services Tax Rules, 2017 to claim the transitional credit, as being procedural in nature was thus merely directory and not a mandatory provision.

c) For a further declaration that in absence of any time limit provided in Section 140 of JGST Act, 2017 for claiming Input Tax Credit (ITC), such claim in FORM

GST TRAN-1 can be filed by the registered dealer within three years from the date of coming into force of JGST Act, 2017 i.e. 30.06.2020, as the said Act came into force on 01.07.2017 as provided under Article 137 of the Limitation Act, 1963.

d) For quashing the Order dated 01.07.2020 (Annexure-8) passed by the Deputy Commissioner of State Tax, Katras Circle, katras (Respondent No. 5) by which he has been pleased to reject the application dated 12.06.2020 with FORM GST TRAN-1 (contained in Annexure-7) manually filed by the petitioner before the Deputy Commissioner of State Tax, Katras Circle, Katras (Respondent No.5) on the ground that the petitioner had not filed the said FORM GST TRAN-1 online on GST portal and there was no information received from the GST Council to accept the said FORM TRAN-1 offline, although the petitioner had filed an application dated 14.03.2019 (Annexure-5) before the Deputy Commissioner of State Tax, Katras Circle, Katras (Respondent No. 5) requesting therein to open the GST/ common portal for allowing the petitioner to file FORM TRAN-1 which could not be filed due to technical difficulties on common portal, which application was forwarded by him to the Joint Commissioner of State Tax, Jharkhand, Ranchi for necessary action vide Memo No. 94 dated 14.03.2019 (Annexure-6) but neither any action was taken on the said application nor the GST/common portal was opened for allowing the petitioner to file FORM TRAN-1.

e) For a direction upon the concerned respondent to accept the said FORM GST TRAN-1 (contained in Annexure-7), manually filed by the petitioner on 12.06.2020 before the Deputy Commissioner of State Tax, Katras Circle, Katras (Respondent No. 5), consider the same and decide it on its merit and allow the claim of ITC as provided in Section 140 of the JGST Act, 2017 in accordance with law by passing a reasoned order in this regard.

2. As per the request made by learned counsel for the petitioner the writ petition has become infructuous. The petitioner has already filed revised TRAN-I during window period granted by the Hon'ble Supreme

Court in the case of Union of India and another versus Filco Trade Centre Pvt. Ltd. and another [2022 VIL 38 SC] vide judgment dated 22.07.2022 passed in Special Leave to Appeal (Civil) No. 32709-32710 of 2018 and analogous cases.

3. Learned counsel for the Respondent also submits that the writ petition has become infructuous.

4. Having regard to the fact that the grievance of the petitioner has already been redressed in view of the judgment rendered by the Apex Court in the case of Filco Trade Centre Pvt. Ltd. and another (supra), writ petition is disposed of. Pending I.A. is closed.

